

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A MEMBER OF
THE STATE BAR OF ARIZONA,

RONALD M. DEBRIGIDA, JR.,
Bar No. 015697

Respondent.

No. PDJ-2016-9114

ORDER OF DISMISSAL

[State Bar Nos. 16-0968, 16-
1693, 16-1851]

FILED APRIL 27, 2017

On November 1, 2016, the Attorney Discipline Probable Cause Committee (ADPCC) issued Probable Cause Orders. The formal complaint was filed on November 14, 2016 alleging violations of ERs 1.3 (diligence), 1.4 (communication), 3.2 (failure to expedite litigation), 3.4(c) (knowing violation of court order), and 8.4(d) conduct prejudicial to the administration of justice. Thereafter, the Presiding Disciplinary Judge (PDJ), pursuant to Supreme Court Rule 58(c), held a mandatory initial case management conference on December 14, 2016 setting forth case management deadlines and a firm hearing date of March 29, 2017.

On that day, the hearing panel, comprised of James M. Marovich, Attorney Member, Howard M. Weiske, Public Member, and PDJ William J. O'Neil, heard argument and considered evidence. Hunter F. Perlmeier appeared on behalf of the State Bar and Russell R. Yurk, *Jennings, Haug & Cunningham* appeared on behalf

of Respondent, Ronald DeBrigida, Jr. At the conclusion of the hearing, the State Bar sought a sixty (60) day suspension and upon reinstatement, two (2) years of probation (LOMAP) and costs. Mr. DeBrigida asserts that the alleged misconduct did not result in harm to clients and did not involve dishonesty, deceit or misrepresentations.

The facts in this matter are generally undisputed. Mr. DeBrigida represented criminal clients in Rule 32 post-conviction relief (PCR) matters on behalf of the Office of Public Defense Services. On more than one occasion, Mr. DeBrigida relied on an incorrect addresses given to him by the Office of Public Defense Services when he attempted to make initial contact with his appointed clients by letter. He further allegedly failed to meet court imposed deadlines to file PCR petitions. The Court approved repeated requests for extensions. We do not find based on the evidence that such practice was unusual or a violation of ethical rules.

DISCUSSION

The State Bar was critical of Mr. DeBrigida for mailing initial engagement letters to new clients allegedly to wrong addresses. Ironically, the State Bar submitted as evidence three of its letters that had been returned by the U.S. Postal Service – the Bar had mailed each of those letters to those same clients. [SBA Exhibits 4, 11, & 27.] Even when pursuing discipline against this Respondent for faulty mailings, the hearing panel notes that the State Bar had the same experience.

The Respondent presented sufficient evidence to show that he has put systems in place to confirm all addresses supplied to him by the Office of Public Defense Services. He also showed that he has adopted a system of calendaring to track Office of Public Defense Services case deadlines.

CONCLUSION

The State Bar has the burden of clear and convincing evidence. While many of the facts are stipulated to, the implications of those facts were not stipulated to. The burden of proof relates to both facts and their implications. The State Bar having failed to meet its burden of proof,

IT IS ORDERED dismissing the matter with prejudice.

Concurring Comment by Attorney Panel Member James Marovich:

Margaret Atwood, the Canadian novelist and poet, has said that if she had to wait for perfection, she would never write a word. A similar idea also has been echoed in medicine, where it has been said that “because humans are not perfect, corrections must be made from time to time.” Washington and Leaver, Principles and Practice of Radiation Therapy 38 (4th ed. 2016).

The same can be said for lawyers and the practice of law. We are human and we are not perfect, and if we had to wait for perfection, we would never be able to help our clients. Alan Dershowitz, in his Letters To A Young Lawyer, wrote that “[l]aw is an imperfect profession ... all practicing lawyers – and most others in the

profession – will necessarily be imperfect, especially in the eyes of young idealists.”

Reasonable under the rules does not mean perfect.

DATED this April 27, 2017.

William J. O’Neil
William J. O’Neil, Presiding Disciplinary Judge

James M. Marovich
James M. Marovich, Attorney Member

Howard M. Weiske
Howard M. Weiske, Public Member

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